



# **Evolution of Victims' rights & victim assistance: A study in Justice**



Michael O'Connell AM APM  
Consulting Victimologist  
Member, INVICTM  
Member, VSA

## What happened on 27 September?



**1066** William, duke of Normandy, embarked his army and set sail for the southeastern coast of England in what would be known in history as the Norman Conquest.

**1779** John Adams negotiates Revolutionary War peace terms with Great Britain

**1918** British forces attacked the Hindenburg Line in the final offensive on the Western Front during World War I.

**1938** British ocean liner "Queen Elizabeth" launches at Clydebank, Scotland

**1956** Great Britain commences 'Operation Buffalo' testing four nuclear fission bombs at Maralinga, South Australia

**1960** Europe's 1st "moving pavement" (travelator), opens at Bank station on the London Underground

**2013** At least 22 people are killed after a refugee ship capsizes off the island of Java

**2014** Hawthorn Football Club defeats the Sydney Swans in the 2014 AFL Grand Final 137-74

**2018** India's Supreme Court rules overturns 158-year old rule, section 497, decriminalizing adultery because it was discriminatory against women

**2019** A week of international climate change protests—led by youths, notably Swedish activist Greta Thunberg—ended, with millions having participated in the demonstrations.



“If someone severed the nose of another man with a copper knife, he must pay two-thirds of a mina of silver.”

"If anyone take over a field to till it, and obtain no harvest therefrom, it must be proved that he did no work on the field, and he must deliver grain, just as his neighbor raised, to the owner of the field."

“If a crime was committed then there was a victim, and it was up to the victim – or the victim's family – to seek justice.”

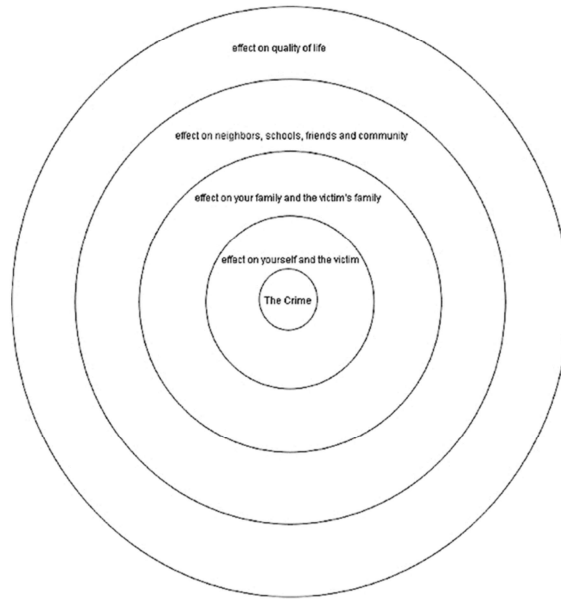
“If an Anglo-Saxon killed a Norman and was unable to pay any or all of the fine, the community (that is the Hundred in which the killing took place) was held jointly and severally liable for the unpaid portion.”

## What is a crime?


*... is not simply an incident which begins a contest between the State and a defendant, between a prosecutor and a [defence counsel]*

*... Crime is first of all an encounter between a victim and an offender. It is an unexpected personal crisis in the life of one person brought on by another ... (van Ness 1983)*

## Who is a victim of crime?



Ripple effect of crime ... Pebble in a pool of water – the ripples caused by the impact.



**1960: Statutory, state-funded  
victim compensation**

**1970: Advent of the victims' movement  
& growth of victim assistance**

**1980: Promulgation of victims' rights**

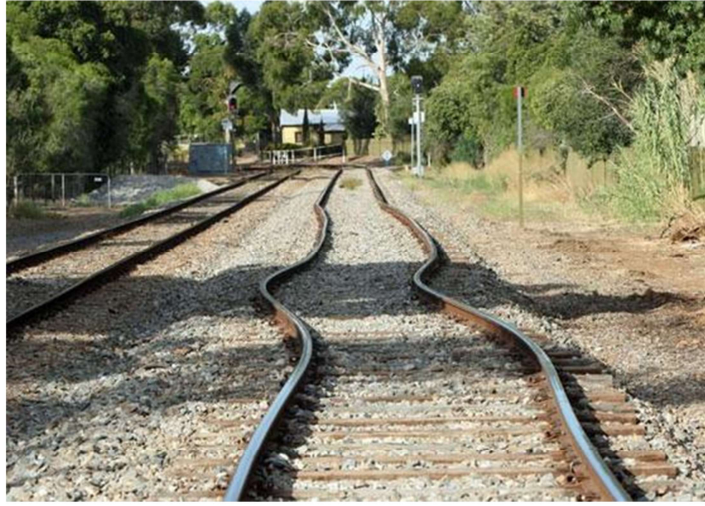
**1990: Consolidating victims' rights  
yet contracting victim compensation**

**2000: The promise of better justice by  
giving victims stronger rights**

**2010: A fundamental shift towards  
collaboration and cooperation**

**2020: Consolidation at whose  
expense?**

## Victims' Rights - Parallel Rights



1. A victim should be treated with kindness and respect.
2. Right to be told about services that can help the victim (and how to contact them).
3. Right to be told about the progress of the investigation.
4. Right to have perceived safety concerns presented to a bail authority.
5. Right to know what is happening to the suspect (including his or her name) and/or personal property taken as evidence.
6. Right to know if the accused person is not charged or charged with a less serious offence.
7. Right to be present in court, unless the court orders otherwise.
8. Right to be informed on role and responsibilities as a witness.
9. Right to be protected from unnecessary contact with offender / offender's family.
10. Right to privacy (e.g. residential address not disclosed).
11. Right to have property returned as soon as practical.
12. Right to make a VIS

13. Right to information about restitution and compensation.
14. Right to be informed on court outcome (e.g. details of sentence) and have such explained.
15. Right to ask for a review for purpose of determining whether an appeal is appropriate.
16. Right to notification about release / escape and return to custody of offender.
17. Right to make submission to Parole Board
18. Right to be informed on parole conditions or licence conditions if mentally ill offender
19. Right to be informed if prisoner absconds
20. Right to information on how to make a complaint

## Commissioner for Victims' Rights

An independent statutory officer appointed by the Governor to ensure they are treated according to the Declaration Governing Treatment of Victims of Crime.

**CAN DO**

**CANNOT DO**

### **CAN:**

- P**rovide information, advice and support to victims
- H**elp to them deal with the physical, emotional and financial impact of crime
- H**elp them in dealings with prosecution authorities and government agencies.
- M**onitor and review laws and court practices impact on victims.
- A**ppear in criminal proceedings as provided in the VOC Act or other Act

### **CANNOT:**

- C**hange a decision made by a judge, magistrate or other authority
- I**nvestigate a complaint not covered by the VOC Act.

## Victim Assistance

- ▶ rebuild provides trauma-based counselling and peer support to adult and child victims of crime as they move through the criminal justice process (1800 310 310)
- ▶ Victim Support Service (1800VICTIM)
- ▶ 'Yarrow Place' (Rape & Sexual Assault Services) (08 8226 8787 or 1800 817 421 (outside Adelaide))
- ▶ Child Protection Services
- ▶ Domestic Violence Services
  - ▶ 1800RESPECT (1800 737 732) (people experiencing violence and abuse)
  - ▶ Domestic Violence Crisis Line on 1800 800 098 (24/7) (Women)
  - ▶ Mensline Australia (1300 789 978)
  - ▶ Aboriginal Family Domestic Violence Hotline (1800 019 123)
- ▶ Road Trauma Support Team (1800 069 528)
- ▶ Homicide Victims Support Group
- ▶ Compassionate Friends (0456 820 133)
- ▶ MOSH (8443 8369)

Examples of the support services available in South Australia.

## Life after ... serving as Commissioner for Victims' Rights

- ▶ Victims of Crime
- ▶ Victims of Terrorism
- ▶ Victims of Environmental Crime
- ▶ Victims of Torture
- ▶ International guest faculty



Project that I have assisted on as a volunteer expert:

### Victims of Crime

Revised Handbook on Justice for Victims of Crime & Abuse of Power

Victim Assistance & crime prevention

### Victims of Terrorism

Guidelines for Asia-Pacific

IPU – Asia-Pacific Statement against Terrorism

Iraq – Improving Outcomes for VOT

Model legislative provisions

Congress of Victims of Terrorism

### Victims of Environmental Crime

UNODC – Crime that affect the environment

Policy Development Committee, European Parliament

### Victims of Torture

Handbook on Justice for Victims of Torture

Also, a member of the international guest faculty for Victimology, and a writer –  
[www.consultingvictimologist.com](http://www.consultingvictimologist.com)